

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Wojciech SZCZEPEK et al.
US Serial No.:
10/599,461
371(c) Date: 09/29/2006
Confirmation No. 9374
For: CRYSTALLINE
POLYMORPHS OF
METHANESULFONIC ACID
ADDITION SALTS OF
IMATINIB

Atty Docket No. INFA-00101-NUS
Art Unit: 1624
Examiner: JAISLE, CECILIA M
Paper Type: Reply to Restriction Requirement
In response to: Restriction Requirement mailed
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/Matthias Scholl/

DR. MATTHIAS SCHOLL, ESQ.

RESPONSE TO RESTRICTION REQUIREMENT

SIR:

In the Office Action of March 20, 2008, which did not address the merits of the above-identified patent application, claims 1-32 were subject to restriction under 35 U.S.C. §§ 121 and 372. As a result of the restriction requirement, the Examiner has divided the claims into 2 groups (Inventions I-II):

Invention I - Claims 1-13 and 24-32, drawn to preparation of crystal forms of the methanesulfonic acid addition salt of Imatinib, classified in class 544, subclass 295; and

Invention II – Claims 14-23, drawn to dimethanesulfonic acid addition salt of Imatinib, classified in class 544, subclass 295, and pharmaceutical compositions thereof classified in class 514, subclass 252.18.

In response to the restriction requirement, Applicants hereby elect Invention I - Claims 1-13 and 24-32, drawn to preparation of crystal forms of the methanesulfonic acid addition salt of Imatinib, classified in class 544, subclass 295.

Applicants respectfully traverse the restriction requirement to reserve a right to petition. Applicants' election is with traverse because the preparation of crystal forms of the methanesulfonic acid addition salt of Imatinib, and dimethanesulfonic acid addition salt of Imatinib are both classified in class 544, subclass 295, which may allow the Examiner to search only one class/subclass when examining the application.

A favorable consideration and early allowance of the claims of this Application are respectfully solicited. Applicant reserves the right to file continuing applications or take such other appropriate action as deemed necessary to protect the non-elected inventions. Applicant does not hereby abandon or waive any rights in the non-elected inventions. Applicant reserves the right to petition from the requirement of restriction and to advance additional arguments for why the Restriction Requirement is improper. All arguments and statements made herein are for the sole purpose of obviating the requirement for restriction, are not made as to the merits of the invention, and are specifically disclaimed for use by the Office in making any objections or rejections in future office actions directed to the merits.

Customer Number: **33,794**

Respectfully Submitted,

/Matthias Scholl/

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Reg. No. 54,947

Attorney of Record

Date: April 14, 2008